

FOOTHILL-DE ANZA COMMUNITY COLLEGE DISTRICT

Audit Report

COLLECTIVE BARGAINING PROGRAM

Chapter 961, Statutes of 1975,
and Chapter 1213, Statutes of 1991

July 1, 1999, through June 30, 2002



STEVE WESTLY
California State Controller

July 2004



STEVE WESTLY
California State Controller

July 2, 2004

Martha J. Kanter, Ed.D., Chancellor
Foothill-De Anza Community College District
12345 El Monte Road
Los Altos Hills, CA 94022-4599

Dear Dr. Kanter:

The State Controller's Office has completed an audit of the claims filed by Foothill-De Anza Community College District for costs of the legislatively mandated Collective Bargaining Program (Chapter 961, Statutes of 1975, and Chapter 1213, Statutes of 1991) for the period of July 1, 1999, through June 30, 2002.

The district claimed \$843,067 for the mandated program. Our audit disclosed that \$394,371 is allowable and \$448,696 is unallowable. The unallowable costs occurred because the district claimed unsupported and ineligible costs. The district was paid \$677,871. The amount paid in excess of allowable costs claimed, totaling \$283,500, should be returned to the State.

The State Controller's Office established an informal audit review process to resolve any dispute of facts. To request a review, submit your written request, and all information pertinent to any disputed issues, within 60 days from your receipt of the final report. Send your request and supporting documentation to Richard J. Chivaro, Chief Counsel, State Controller's Office, Post Office Box 942850, Sacramento, CA 94250-0001. In addition, send a copy of the request letter to Jim L. Spano, Chief, Compliance Audits Bureau, State Controller's Office, Division of Audits, Post Office Box 942850, Sacramento, California 94250-5874.

If you have any questions, please contact Mr. Spano at (916) 323-5849.

Sincerely,

Original Signed By:

VINCENT P. BROWN
Chief Operating Officer

VPB:jj

cc: Mike Brandy, Vice Chancellor
Business Services
Foothill-De Anza Community College District
Jane Enright, Vice Chancellor
Human Resources and Equal Opportunity
Foothill-De Anza Community College District
Hector Quiñonez, Controller
Foothill-De Anza Community College District
Will Coursey, Internal Auditor
Foothill-De Anza Community College District
Ed Monroe, Program Assistant
Fiscal Accountability Section
Chancellor's Office
California Community Colleges
Jeannie Oropeza, Program Budget Manager
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Division of Audits
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Audit Report

Summary

The State Controller's Office (SCO) has completed an audit of the claims filed by Foothill-De Anza Community College District for costs of the legislatively mandated Collective Bargaining Program (Chapter 961, Statutes of 1975, and Chapter 1213, Statutes of 1991) for the period of July 1, 1999, through June 30, 2002. The last day of fieldwork was October 16, 2003.

The district claimed \$843,067 for the mandated program. The audit disclosed that \$394,371 is allowable and \$448,696 is unallowable. The unallowable costs occurred because the district claimed unsupported and ineligible costs. The district was paid \$677,871. The amount paid in excess of allowable costs claimed, totaling \$283,500, should be returned to the State.

Background

In 1975, the State enacted the Rodda Act (Chapter 961, Statutes of 1975), requiring the employer and employee to meet and negotiate, thereby creating a collective bargaining atmosphere for public school employers. The legislation created the Public Employment Relations Board to issue formal interpretations and rulings regarding collective bargaining under the Act. In addition, the legislation established organizational rights of employee organizations, and recognized exclusive representatives relating to collective bargaining. On July 17, 1978, the Board of Control (now the Commission on State Mandates) ruled that the Rodda Act imposed a reimbursable state mandate upon school districts reimbursable under *Government Code* Section 17561.

In 1991, the State enacted Chapter 1213, Statutes of 1991, which requires that school districts publicly disclose major provisions of collective bargaining efforts before the agreement becomes binding. On August 20, 1998, the Commission on State Mandates (COSM) ruled that this legislation also imposed a state mandate upon school districts reimbursable under *Government Code* Section 17561. Costs of publicly disclosing major provisions of collective bargaining agreements that districts incurred after July 1, 1996, are allowable.

Claimants are allowed to claim increased costs. For components G1 through G3, increased costs represent the difference between the current-year Rodda Act activities and the base-year Winton Act activities (generally, fiscal year 1974-75), as adjusted by the implicit price deflator. For components G4 through G7, increased costs represent actual costs incurred.

The seven components are as follows:

- G1-Determining bargaining units and exclusive representative
- G2-Election of unit representative
- G3-Costs of negotiations
- G4-Impasse proceedings
- G5-Collective bargaining agreement disclosure
- G6-Contract administration
- G7-Unfair labor practice charges

Parameters and Guidelines, adopted by COSM on October 22, 1980 (and last amended on August 20, 1998), establishes the state mandate and defines criteria for reimbursement. In compliance with *Government Code* Section 17558, the SCO issues claiming instructions for each mandate requiring state reimbursement to assist school districts and local agencies in claiming reimbursable costs.

Objective, Scope, and Methodology

The audit objective was to determine whether costs claimed are increased costs incurred as a result of the legislatively mandated Collective Bargaining Program (Chapter 961, Statutes of 1975, and Chapter 1213, Statutes of 1991) for the period of July 1, 1999, through June 30, 2002.

The auditors performed the following procedures:

- Reviewed the costs claimed to determine if they were increased costs resulting from the mandated program;
- Traced the costs claimed to the supporting documentation to determine whether the costs were properly supported;
- Confirmed that the costs claimed were not funded by another source; and
- Reviewed the costs claimed to determine that the costs were not unreasonable and/or excessive.

The SCO conducted the audit in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. The SCO did not audit the district's financial statements. The scope was limited to planning and performing audit procedures necessary to obtain reasonable assurance concerning the allowability of expenditures claimed for reimbursement. Accordingly, transactions were examined, on a test basis, to determine whether the amounts claimed for reimbursement were supported.

Review of the district's internal controls was limited to gaining an understanding of the transaction flow and claim preparation process as necessary to develop appropriate auditing procedures.

Conclusion

The audit disclosed instances of noncompliance with the requirements outlined above. These instances are described in the accompanying Summary of Program Costs (Schedule 1) and in the Findings and Recommendations section of this report.

For the audit period, Foothill-De Anza Community College District claimed \$843,067 for costs of the legislatively mandated Collective Bargaining Program. The audit disclosed that \$394,371 is allowable and \$448,696 is unallowable.

For fiscal year (FY) 1999-2000, the district was paid \$217,342 by the State. The audit disclosed that \$118,258 is allowable. The amount paid in excess of allowable costs claimed, totaling \$99,084, should be returned to the State.

For FY 2000-01, the district was paid \$225,336 by the State. The audit disclosed that \$105,582 is allowable. The amount paid in excess of allowable costs claimed, totaling \$119,754, should be returned to the State.

For FY 2001-02, the district was paid \$235,193 by the State. The audit disclosed that \$170,531 is allowable. The amount paid in excess of allowable costs claimed, totaling \$64,662, should be returned to the State.

Views of Responsible Officials

The SCO issued a draft audit report on March 12, 2004. Michael Brandy, Vice Chancellor–Business Services, responded by the attached letter dated April 28, 2004, disagreeing with the audit results. The district's response is included in this final audit report.

Restricted Use

This report is solely for the information and use of the Foothill-De Anza Community College District, the California Department of Finance, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original Signed By:

JEFFREY V. BROWNFIELD
Chief, Division of Audits

Schedule 1— Summary of Program Costs July 1, 1999, through June 30, 2002

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustments</u>	<u>Reference ¹</u>
<u>July 1, 1999, through June 30, 2000</u>				
Components G1 through G3:				
Salaries and benefits	\$ 42,058	\$ 31,564	\$ (10,494)	Finding 1
Contract services	<u>57,504</u>	<u>30,099</u>	<u>(27,405)</u>	Finding 2
Subtotals	99,562	61,663	(37,899)	
Less adjusted base year direct costs	<u>(15,398)</u>	<u>(15,398)</u>	<u>—</u>	
Increased direct costs, G1 through G3	<u>84,164</u>	<u>46,265</u>	<u>(37,899)</u>	
Components G4 through G7:				
Salaries and benefits	45,074	—	(45,074)	Finding 1
Contract services	<u>58,218</u>	<u>56,363</u>	<u>(1,855)</u>	Finding 2
Increased direct costs, G4 through G7	<u>103,292</u>	<u>56,363</u>	<u>(46,929)</u>	
Total increased direct costs, G1 through G7	187,456	102,628	(84,828)	
Indirect costs	<u>29,886</u>	<u>15,630</u>	<u>(14,256)</u>	Findings 1, 3
Total costs	<u>\$ 217,342</u>	118,258	<u>\$ (99,084)</u>	
Less amount paid by the State		<u>(217,342)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (99,084)</u>		
<u>July 1, 2000, through June 30, 2001</u>				
Components G1 through G3:				
Salaries and benefits	\$ 43,411	\$ 30,150	\$ (13,261)	Finding 1
Contract services	<u>20,210</u>	<u>20,210</u>	<u>—</u>	Finding 2
Subtotals	63,621	50,360	(13,261)	
Less adjusted base year direct costs	<u>(16,533)</u>	<u>(16,533)</u>	<u>—</u>	
Increased direct costs, G1 through G3	<u>47,088</u>	<u>33,827</u>	<u>(13,261)</u>	
Components G4 through G7:				
Salaries and benefits	74,213	3,952	(70,261)	Finding 1
Contract services	<u>77,287</u>	<u>53,460</u>	<u>(23,827)</u>	Finding 2
Increased direct costs, G4 through G7	<u>151,500</u>	<u>57,412</u>	<u>(94,088)</u>	
Total increased direct costs, G1 through G7	198,588	91,239	(107,349)	
Indirect costs	<u>36,605</u>	<u>14,343</u>	<u>(22,262)</u>	Findings 1, 3
Total costs	<u>\$ 235,193</u>	105,582	<u>\$(129,611)</u>	
Less amount paid by the State		<u>(225,336)</u>		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (119,754)</u>		

Schedule 1 (continued)

<u>Cost Elements</u>	<u>Actual Costs Claimed</u>	<u>Allowable per Audit</u>	<u>Audit Adjustments</u>	<u>Reference ¹</u>
<u>July 1, 2001, through June 30, 2002</u>				
Components G1 through G3:				
Salaries and benefits	\$ 64,758	\$ 45,176	\$ (19,582)	Finding 1
Contract services	21,701	21,465	(236)	Finding 2
Subtotals	86,459	66,641	(19,818)	
Less adjusted base year direct costs	(16,768)	(16,768)	—	
Increased direct costs, G1 through G3	69,691	49,873	(19,818)	
Components G4 through G7:				
Salaries and benefits	53,752	4,891	(48,861)	Finding 1
Contract services	229,973	90,616	(139,357)	Finding 2
Increased direct costs, G4 through G7	283,725	95,507	(188,218)	
Total increased direct costs, G1 through G7	353,416	145,380	(208,036)	
Indirect costs	37,116	25,151	(11,965)	Findings 1, 3
Total costs	<u>\$ 390,532</u>	170,531	<u>\$(220,001)</u>	
Less amount paid by the State		(235,193)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (64,662)</u>		
<u>Summary: July 1, 1999, through June 30, 2002</u>				
Components G1 through G3:				
Salaries and benefits	\$ 150,227	\$ 106,890	\$ (43,337)	Finding 1
Contract services	99,415	71,774	(27,641)	Finding 2
Subtotals	249,642	178,664	(70,978)	
Less adjusted base year direct costs	(48,699)	(48,699)	—	
Increased direct costs, G1 through G3	200,943	129,965	(70,978)	
Components G4 through G7:				
Salaries and benefits	173,039	8,843	(164,196)	Finding 1
Contract services	365,478	200,439	(165,039)	Finding 2
Increased direct costs, G4 through G7	538,517	209,282	(329,235)	
Total increased direct costs, G1 through G7	739,460	339,247	(400,213)	
Indirect costs	103,607	55,124	(48,483)	Findings 1, 3
Total costs	<u>\$ 843,067</u>	394,371	<u>\$(448,696)</u>	
Less amount paid by the State		(677,871)		
Allowable costs claimed in excess of (less than) amount paid		<u>\$ (283,500)</u>		

¹ See the Findings and Recommendations section.

Findings and Recommendations

FINDING 1— Unallowable salaries, benefits, and related indirect costs claimed

The district claimed unallowable salary and benefit costs of \$207,533. The related indirect costs total \$75,709, based on the indirect cost rate claimed of 36.48%. Salary and benefit costs are unallowable as follows:

Component G3—Negotiations

- The district did not provide sufficient documentation to support a portion of part-time teachers' hours claimed. Unallowable costs totaled \$1,478 (18.5 hours) in FY 1999-2000, \$424 (4.75 hours) in FY 2000-01, and \$301 (3 hours) in FY 2001-02.
- The district claimed duplicate costs for part-time teachers totaling \$626 (6.25 hours) in FY 2001-02.
- The district did not support the productive hourly rate claimed for part-time teachers. The district claimed part-time teacher costs using productive hourly rates of \$79.87, \$89.41, and \$100.08 for FY 1999-2000, FY 2000-01, and FY 2001-02, respectively. The district provided documentation that supported rates of \$70.51, \$77.87, and \$87.66 for the three fiscal years. As a result, unallowable costs totaled \$1,516 in FY 1999-2000, \$1,917 in FY 2000-01, and \$2,326 in FY 2001-02.
- The district did not provide supporting documentation for a portion of management team members and confidential assistant hours claimed. Unallowable costs totaled \$7,500 (126.5 hours) in FY 1999-2000, \$10,920 (144.75 hours) in FY 2000-01, and \$16,329 (202.25 hours) in FY 2001-02.

Component G6—Administration/Grievances

- The district did not provide adequate documentation to support \$45,074 (687 hours) claimed in FY 1999-2000, \$69,628 (865.25 hours) in FY 2000-01, and \$48,378 (551.75 hours) in FY 2001-02. District documentation included hours summarized from electronic meeting-scheduling software, electronic mail messages, and internal memoranda indicating annual mandate hours for various employees. For hours claimed from electronic meeting-scheduling software records, the district did not provide corroborating evidence (e.g., sign-in logs, agendas, or meeting minutes) showing that scheduled meetings were held and invited attendees were present. The district did not provide any corroborating evidence for annual hours indicated on electronic mail messages and internal memoranda.
- The district did not provide sufficient documentation to support a portion of part-time teachers' hours claimed. Unallowable costs totaled \$335 (3.75 hours) in FY 2000-01.
- The district claimed duplicate costs for part-time teachers totaling \$250 (2.5 hours) in FY 2001-02.
- The district's records did not support productive hourly rates claimed for part-time teachers. Unallowable costs totaled \$298 in FY 2000-01, and \$233 in FY 2001-02.

The audit adjustment for salary and benefit costs is summarized as follows:

Elements/Components	Fiscal Year			Total
	1999-2000	2000-01	2001-02	
Salary and benefit costs:				
G1 through G3	\$ (10,494)	\$ (13,261)	\$ (19,582)	\$ (43,337)
G4 through G7	<u>(45,074)</u>	<u>(70,261)</u>	<u>(48,861)</u>	<u>(164,196)</u>
Audit adjustment, direct costs	<u>\$ (55,568)</u>	<u>\$ (83,522)</u>	<u>\$ (68,443)</u>	<u>\$ (207,533)</u>
Audit adjustment, indirect costs	<u>\$ (20,271)</u>	<u>\$ (30,470)</u>	<u>\$ (24,968)</u>	<u>\$ (75,709)</u>

Parameters and Guidelines states that public school employers will be reimbursed for the increased costs incurred as a result of compliance with the mandate. Claims must show the costs of salaries and benefits for employer representatives participating in negotiations, negotiation planning sessions, and adjudication of contract disputes. Claims must also indicate the cost of substitutes for release time of exclusive bargaining unit representatives during negotiations and adjudication of contract disputes. Claims must show the classification of employees involved, amount of time spent, and their hourly rates.

Recommendation

The district should ensure that all costs claimed are adequately supported by source documentation.

District's Response

The District contests the finding that electronic calendars and internal memoranda documenting time spent on collective bargaining activities are unallowable. Electronic calendars are no less proof of a person's activities than paper calendars. The Mandated Cost Manual states, "A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question." The purpose of an audit is to ascertain the existence or non-existence of reliable evidence to support the claims for reimbursement, and neither the general law nor the Governmental Auditing Standards exclude any form of reasonably reliable evidence from consideration because of its form or format. Nothing in the parameters and guidelines requires a source document to be handwritten or on paper. The electronic software that Foothill-De Anza uses for meetings is used because it can schedule meetings in real time. The time disallowed under Finding 1, Component g6 in the amount of \$163,030 for negotiations and administration should be reinstated.

SCO's Comment

The finding and recommendation remain unchanged. The district did not contest the audit adjustment for Component G3–Negotiations.

While the SCO recognizes that the district performed Component G6-Administration/Grievance activities, the SCO conducted this audit to determine to what extent the district performed these activities. To

support its claim, the district provided only electronic mail messages, other internal memoranda, and summary schedules that the district purportedly prepared from electronic meeting records. Electronic mail messages and internal memoranda constitute declarations and are not contemporaneous records of time spent on mandated activities. The SCO cannot determine from the electronic meeting record summary schedules whether the scheduled meetings occurred, the identified individuals attended, and the hours claimed were accurate. Therefore, absent other corroborating evidence, the SCO auditor could not ascertain that the costs claimed reflect actual mandated activities that the district performed.

The district may address the reasonableness of the costs claimed through the SCO informal audit review process, which is discussed in the final transmittal letter.

**FINDING 2—
Unallowable contract
services costs claimed**

The district claimed unallowable contract services costs of \$192,680. Contract service costs claimed are unallowable as follows:

Component G3–Negotiations

- The district claimed \$27,405 in FY 1999-2000 for costs related to a personnel matter that was not related to collective bargaining.
- The district claimed \$236 (1.75 hours) in FY 2001-02 for services performed but not charged by the contractor that rendered the services.

Component G6–Administration/Grievances

- The district claimed \$1,484 in FY 1999-2000, \$23,827 in FY 2000-01, and \$133,453 in FY 2001-02 for matters not related to collective bargaining. The district's Vice Chancellor for Human Resources and Equal Opportunity confirmed that \$129,707 claimed was not related to collective bargaining; the auditor identified the remaining costs after reviewing all other claimed grievance files.
- The district did not provide supporting documentation for \$337 claimed in FY 1999-2000 and \$135 in FY 2001-02 to show that the costs were related to collective bargaining.
- The district claimed \$34 (0.25 hours) in FY 1999-2000 and \$2,019 (14.95 hours) in FY 2001-02 for unallowable hours due to mathematical errors or hours documented but not charged by the firm rendering services.
- The district claimed 100% of arbitration fees totaling \$6,600 in FY 2001-02; however, only 50% of arbitration costs (\$3,300) is reimbursable. The district also claimed unallowable arbitration cancellation fees of \$450.

The audit adjustment for contracted services is summarized as follows:

Elements/Components	Fiscal Year			Total
	1999-2000	2000-01	2001-02	
Contract services:				
G1 through G3	\$ (27,405)	\$ —	\$ (236)	\$ (27,641)
G4 through G7	<u>(1,855)</u>	<u>(23,827)</u>	<u>(139,357)</u>	<u>(165,039)</u>
Audit adjustment	<u>\$ (29,260)</u>	<u>\$ (23,827)</u>	<u>\$ (139,593)</u>	<u>\$ (192,680)</u>

Parameters and Guidelines states that public school employers will be reimbursed for the increased costs incurred as a result of compliance with the mandate. *Parameters and Guidelines* requires the district to separately show the name of professionals or consultants, specify the functions the consultants performed relative to the mandate, specify the length of appointment, and provide itemized costs for such services. *Parameters and Guidelines* also states that only the public school employer's portion of arbitrators' fees for adjudicating grievances, representing 50% of costs, will be reimbursed.

Recommendation

The district should ensure that all costs claimed are reimbursable under *Parameters and Guidelines* for the legislatively mandated Collective Bargaining Program and that all such costs are properly supported with source documentation.

District's Response

The district did not respond to this audit finding.

FINDING 3— Understated indirect costs claimed

The district understated indirect costs by \$27,226 for the audit period. The district overstated the indirect cost rate claimed; however, total indirect costs claimed were understated because the district did not apply the indirect cost rate to total increased direct costs.

The district claimed indirect costs based on an indirect cost rate proposal (ICRP) prepared by an outside consultant using FY 1998-99 district costs. The district did not develop indirect cost rates based on costs incurred in the fiscal years within the audit period. In addition, the district did not obtain federal approval for its ICRP. For the audit period, the district claimed a 36.48% indirect cost rate.

During audit fieldwork, the district submitted revised ICRPs for each fiscal year within the audit period. The district prepared the revised ICRPs using the methodology allowed by the SCO claiming instructions. The indirect cost rates resulting from the revised ICRPs did not support the indirect cost rate claimed. The district's revised ICRPs supported indirect cost rates of 15.23% for FY 1999-2000, 15.72% for FY 2000-01, and 17.3% for FY 2001-02.

The district applied the claimed indirect cost rate to increased direct costs for salaries and benefits only. However, the indirect cost rates calculated using the revised methodology are applicable to both salaries and benefits, and contract services, resulting in understated indirect costs claimed. The audit adjustment for indirect costs is summarized as follows:

	Fiscal Year			Total
	1999-2000	2000-01	2001-02	
Allowable increased direct costs, G1 through G7	\$102,628	\$ 91,239	\$145,380	
Allowable indirect cost rate	<u>×15.23%</u>	<u>×15.72%</u>	<u>×17.30%</u>	
Subtotals	15,630	14,343	25,151	
Less indirect costs claimed	<u>(29,886)</u>	<u>(36,605)</u>	<u>(37,116)</u>	
Subtotals	(14,256)	(22,262)	(11,965)	
Unallowable indirect costs from Finding 1	<u>20,271</u>	<u>30,470</u>	<u>24,968</u>	
Audit adjustment	<u>\$ 6,015</u>	<u>\$ 8,208</u>	<u>\$ 13,003</u>	<u>\$ 27,226</u>

Parameters and Guidelines states that for allowable overhead costs, community college districts must use one of the following three alternatives: (1) a federally-approved rate based on Office of Management and Budget (OMB) Circular A-21; (2) the State Controller's form FAM-29C, which is based on total expenditures as reported in *California Community Colleges Annual Financial and Budget Report, Expenditures by Activity (CCFS-311)*; or (3) 7%.

Recommendation

The district should claim indirect costs in accordance with *Parameters and Guidelines*. The district should obtain federal approval for ICRPs prepared in accordance with OMB Circular A-21 and prepare these ICRPs based on costs incurred in the same fiscal year. Alternately, the district could use form FAM 29-C to prepare ICRPs based on the methodology allowed in the SCO's claiming instructions, or claim indirect costs using the flat 7% rate.

District's Response

The district also contests the indirect cost rate. The rate which was applied to the original claim was 36.48%. This rate was calculated and developed . . . following federal guidelines and was to be used on federal grants. While we did not receive independent approval of that rate in that year, we did begin to use it for federal grant applications. This rate was used and approved on a NSF [National Science Foundation] grant on 4/17/02.

[A representative of the U.S. Department of Health and Human Services (DHHS)] indicated to us that the indirect cost rate used and approved as part of the [NSF] grant (36.48%) became our de facto approval rate as of 4/17/02. Therefore, we do believe this rate would continue to be the legal and appropriate rate for claim year 2001-2002. We request that the audit finding be adjusted to reflect this indirect cost rate for that claim year.

SCO's Comment

The finding and recommendation are unchanged. The district has contested the audit finding for FY 2001-02 only. NSF approved an indirect cost rate of 36.48% for a specific grant, but did not approve an agency-wide application of that rate. The SCO confirmed this understanding with a DHHS representative.

**Attachment—
District's Response to
Draft Audit Report**



**Foothill-De Anza
Community College District**

12345 El Monte Road
Los Altos Hills, CA 94022-4599

Foothill College
De Anza College

April 28, 2004

Mr. Jim L. Spano
Chief, Compliance Audit Bureau
State Controller's Office
Division of Audits
P.O. Box 942850
Sacramento, CA 94520-5874

Dear Mr. Spano:

We have carefully reviewed the 1999-2002 collective bargaining mandated draft audit we received on March 19, 2004.

The District contests the finding that electronic calendars and internal memoranda documenting time spent on collective bargaining activities are unallowable. Electronic calendars are no less proof of a person's activities than paper calendars. The Mandated Cost Manual states, "A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question." The purpose of an audit is to ascertain the existence or non-existence of reliable evidence to support the claims for reimbursement, and neither the general law nor the Governmental Auditing Standards exclude any form of reasonably reliable evidence from consideration because of its form or format. Nothing in the parameters and guidelines requires a source document to be handwritten or on paper. The electronic software that Foothill-De Anza uses for meetings is used because it can schedule meetings in real time. The time disallowed under Finding 1, Component g6 in the amount of \$163,030 for negotiations and administration should be reinstated.

The District also contests the indirect cost rate. The rate which was applied to the original claim was 36.48%. This rate was calculated and developed by the independent accounting firm of Arthur Andersen in 2000. The rate was calculated following federal guidelines and was to be used on federal grants. While we did not receive independent approval of that rate in that year, we did begin to use it for federal grant applications. This rate was used and approved on an NSF grant on 4/17/02 (NSF #0226289).

In trying to clarify this issue with the federal government this last year, we were directed to Mr. Bob Klein, Division of Cost Allocations, Department of Health & Human Services, 50 United Nations Plaza, Room 347, San Francisco. He has indicated to us that the indirect cost rate used and approved as part of the grant (36.48%) became our de facto

Accounting Services: (650) 949-6253 — Business Services: (650) 949-6200 — Employee Benefits: (650) 949-6225
Employment Services: (650) 949-6217 — Facilities and Construction Management: (650) 949-6156 — Human Resources: (650) 949-6224
Information Systems and Services: (650) 949-6271 — Risk Management: (650) 949-6146 — Purchasing Services: (650) 949-6164

Mr. Jim Spano
April 28, 2002

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approved rate as of 4/17/02. Therefore, we do believe this rate would continue to be the legal and appropriate rate for claim year 2001-2002.

We request that the audit finding be adjusted to reflect this indirect cost rate for that claim year.

Sincerely,



Michael Brandy
Vice Chancellor, Business Services

C: G. Wedner
M. Kanter

**State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, California 94250-5874**

<http://www.sco.ca.gov>